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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,032	08/06/2001	Richard William Kubalek	15,454.1	8952

23556 7590 11/25/2005

KIMBERLY-CLARK WORLDWIDE, INC.
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EXAMINER

KIDWELL, MICHELE M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 11/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/923,032		KUBALEK ET AL.	
	Examiner		Art Unit	
	Michele Kidwell		3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2005.
- 2a) ☐ This action is **FINAL**.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 29-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 29-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some * c) ☐ None of:
 - 1. ☐ Certified copies of the priority documents have been received.
 - 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 24, 2005 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 6, 8 – 14 and 29 – 33 are rejected under 35 U.S.C. 103(a) as obvious over Parr (EP 0 471 385A1).

With respect to claim 1, Parr discloses a feminine sanitary protection device for use with an undergarment, comprising a liquid impermeable outer cover having a central longitudinal axis, and including a top edge, a bottom edge, a first side edge and a second side edge, a first side section between the first side edge and the central

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longitudinal axis, and a second side section between the second the side edge and the central longitudinal axis, a first frangible line in the first side section of the outer cover, and a second frangible line in the second side section of the outer cover (figures 4 – 5), at least the liquid absorbent medium being located between the first frangible line and the second frangible line (page 3, lines 45 – 47 and figures 4 – 5), the liquid absorbent device being folded so the outer cover forms the exterior of the folded liquid absorbent device such that, upon removal of portions of the outer cover outboard the frangible lines and unfolding the liquid absorbent device and use of the liquid absorbent device on the undergarment, a remaining portion of the outer cover forms a liquid impermeable layer of the liquid absorbent device with the outer cover being located between the liquid absorbent device and the undergarment as set forth in the abstract, on page 3, lines 40 – 49 an in figures 4 – 5.

The difference between Parr and claim 1 is the provision that the feminine sanitary protection device comprises a liquid permeable liner and an absorbent medium that are integrally joined with the outer cover.

Parr discloses that absorbent articles such as panty liners and sanitary napkins are well known throughout the art (page 2, lines 7 – 8). Parr also discloses that these articles generally have an absorbent, a body facing side and a garment facing side (page 2, line 8). Parr goes on to define the garment facing side comparatively to what is generally known in the art as the backsheet or liquid impermeable outer cover. It can then be reasonably assumed that the body facing side is comparable to what is generally known in the art as the topsheet or the liquid permeable liner.

Alternatively, it is well known in the art to employ a liquid permeable liner in conjunction with the absorbent and the outer cover of a feminine sanitary protection device because the liquid permeable liner allows the user to avoid direct contact with the absorbent material which may be irritating to the user's skin. The use of liquid permeable liner also allows emitted fluids to be absorbed efficiently without allowing the fluids to be retained directly on the user's skin which may also cause irritability, chafing, rash, etc.

Likewise, it is well known in the art that the liquid permeable liner, absorbent and liquid impermeable outer cover are integrally joined in order to hold the product together.

For example, Moder (US 5,827,251) discloses a feminine sanitary protection device comprising a liquid permeable liner and an absorbent medium that are integrally joined with the outer cover as set forth in col. 12, lines 47 – 51.

As to claim 2, Parr discloses a device further comprising a first joining element in the first side section, and a second joining element in the second side section as set forth in figures 1 – 6.

Regarding claims 3 and 9, Parr discloses a device wherein the first joining element and the second joining element join respective portions of the folded outer cover together as set forth in figure 1.

With respect to claims 4 and 31, Parr discloses a device wherein each frangible line is in generally overlapping alignment with itself as set forth in figures 4 – 5.

Regarding claim 5, Parr discloses a device wherein the first frangible line is between the first joining element and the central longitudinal axis, and the second frangible line is between the second joining element and the central longitudinal axis as set forth in figures 4 – 5.

As to claims 6 and 33, Parr discloses a device further comprising a release strip for the liquid absorbent device located on an exterior of the outer cover as set forth on page 2, line 58 to page 3, line 6.

With respect to claim 8, Parr discloses a feminine sanitary protection device for use with an undergarment, comprising a liquid impermeable outer cover having a central longitudinal axis, and including a top edge, a bottom edge, a first side edge and a second side edge, a first side section between the first side edge and the central longitudinal axis, and a second side section between the second the side edge and the central longitudinal axis, means in the first side section and in the second side section for removing at least a portion of the first side section and at least a portion of the second side section from the outer cover (figures 4 – 5), and a liquid permeable liner and an absorbent medium joined with the outer cover to form a liquid absorbent device (page 2, line 9), the liquid absorbent device being folded so the outer cover forms the exterior of the folded liquid absorbent device such that, upon removal of at least a portion of the first side section at least a portion of the second side section from the outer cover and unfolding the liquid absorbent device and use of the liquid absorbent device on the undergarment, a remaining portion of the outer cover is integrally joined with the liquid absorbent device and forms a liquid impermeable layer of the liquid

absorbent device that includes the liquid permeable liner and the absorbent medium with the outer cover being located between the liquid absorbent device and the undergarment as set forth in the abstract, on page 3, lines 40 – 49 and in figures 4 – 5.

With respect to claim 10, Parr discloses a device wherein the liquid absorbent device with its outer cover is tri-folded as set forth on page 3, lines 40 – 43.

Regarding claim 11, Parr discloses a device wherein the removing means is between the joining means as set forth in figure 5.

As to claim 12, Parr discloses a device further comprising a release strip for the liquid absorbent device wherein the release strip is located on an exterior of the outer cover as set forth on page 2, line 57 to page 3, line 6.

With reference to claims 13 and 14, Parr discloses a device wherein the removing means includes a first frangible line in the first side section, and a second frangible line in the second side section wherein the frangible lines include perforations as set forth on page 3, lines 45 – 47 and in figures 4 – 5.

With respect to claim 29, Parr discloses a feminine sanitary protection device for use with an undergarment, comprising a liquid impermeable outer cover having a central longitudinal axis, and including a top edge, a bottom edge, a first side edge and a second side edge, a first side section between the first side edge and the central longitudinal axis, and a second side section between the second the side edge and the central longitudinal axis, a first frangible line in the first side section of the outer cover, and a second frangible line in the second side section of the outer cover (figures 4 – 5), a liquid permeable liner and an absorbent medium joined with the outer cover to form a

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liquid absorbent device (page 2, line 9), at least the liquid absorbent medium being located between the first frangible line and the second frangible line (page 3, lines 45 – 47 and figures 4 – 5), the liquid absorbent device being folded so the outer cover forms the exterior of the folded liquid absorbent device such that, upon removal of portions of the outer cover outboard the frangible lines and unfolding the liquid absorbent device and placement adjacent the undergarment for use of the liquid absorbent device on the undergarment, a remaining portion of the outer cover is adhered to the liquid absorbent device and forms a liquid impermeable layer of the liquid absorbent device that includes the liquid permeable liner and the absorbent medium with the outer cover being located between the liquid absorbent device and the undergarment as set forth in the abstract, on page 3, lines 40 – 49 and in figures 4 – 5.

As to claim 30, Parr discloses a device further comprising a first joining element in the first side section, and a second joining element in the second side section wherein the first joining element and the second joining element join respective portions of the folded outer cover together as set forth in figures 1 – 6.

Regarding claim 32, Parr discloses a device further comprising a first joining element in the first side section, and a second joining element in the section side section wherein the first frangible line is between the first joining element and the central longitudinal axis, and the second frangible line is between the second joining element and the central longitudinal axis as set forth in figures 4 – 5.

Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as obvious over Parr (EP 0 471 385A1) in view of Moder et al. (US 5,827,251).

Parr discloses the invention substantially as claimed.

The difference between Parr and claims 7 and 15 is the provision that the device comprises a vaginal insertion device placed with the liquid absorbent device.

Moder teaches the use of a vaginal insertion device in conjunction with a liquid absorbent device as set forth in figure 1.

It would have been obvious to one of ordinary skill in the art to modify the absorbent device of Parr to provide a vaginal insertion device because the combination of the absorbent device and the vaginal insertion device provides added leakage protection and a more discreet and convenient product that saves time and money as taught by Moder in col. 4, line 65 to col. 5, line 4 and col. 5, lines 23 – 42.

Response to Arguments

Applicant's arguments with respect to claims 1 – 15 and 29 – 33 have been considered but are moot in view of the new ground(s) of rejection.


However, with respect to the applicant's argument that Parr teaches away from the use of a release strip, the examiner notes that Parr explicitly discloses the use of such on page 2, line 57 to page 3, line 6.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Michele Kidwell
Primary Examiner
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